

Message Text

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ORIGIN OES-06

INFO OCT-01 EUR-12 ISO-00 PM-04 NSC-05 SP-02 SS-15
ACDA-07 CIAE-00 INR-07 IO-13 L-03 NSAE-00 EB-08
NRC-05 FEAEE-00 DODE-00 ERDA-05 AS-01 /094 R

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-----181600Z 124052 /50

P 181524Z APR 77
FM SECSTATE WASHDC
TO AMEMBASSY MADRID PRIORITY

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E.O. 11652: GDS

TAGS: TECH, ENRG, SP

SUBJECT: U.S.-SPANISH NUCLEAR COOPERATION

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REF: (A) MADRID 2020 (B) STATE 46547 (C) MADRID 2838

1. INSTRUCTIONS ON SPANISH NO-PNE NOTE (REF C) ARE BEING
SENT BY SEPTEL.

2. WE APPRECIATE EMBASSY'S EFFORTS TO ARRIVE AT MUTUALLY
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ACCEPTABLE LANGUAGE FOR SPANISH ASSURANCE ON NON-U.S.
ORIGIN FUEL AND BELIEVE THAT, WITH RELATIVELY MINOR
CHANGES, WE CAN ACCEPT SPANISH SUGGESTIONS (REF A).

3. WE HAVE NO PROBLEM WITH INTENT OF PENULTIMATE SEN-
TENCE IN PROPOSED SPANISH NOTE (PARA 5, REF A), BUT DO
NOT BELIEVE WE CAN UNDERTAKE TO PROVIDE "PRECISE GUARAN-

TEES" IN ADVANCE OF NEGOTIATIONS. MOREOVER, LANGUAGE OF SENTENCE, WHICH SPANIARDS SAY IS BASED ON NPT, APPEARS TO HAVE BECOME SLIGHTLY DISTORTED, PRESUMABLY AS A RESULT OF RETRANSITION INTO ENGLISH. THEREFORE, WE PROPOSE SUBSTITUTING FOLLOWING SENTENCE: "PROVISIONS OF A NEW OR AMENDED AGREEMENT WILL BE DESIGNED TO AVOID HAMPERING THE

ECONOMIC OR TECHNOLOGICAL DEVELOPMENT OF THE PARTIES OR INTERNATIONAL COOPERATION IN THE FIELD OF NUCLEAR ENERGY, INCLUDING THE INTERNATIONAL EXCHANGE OF NUCLEAR MATERIAL AND EQUIPMENT."

4. WE HAVE CAREFULLY CONSIDERED LANGUAGE PROPOSED BY GOS IN FINAL SENTENCE OF DRAFT NOTE (REF A), AND WE RECOGNIZE SPANISH CONCERNS ABOUT PROVIDING AN OPEN-ENDED ASSURANCE PRIOR TO COMMENCING NEGOTIATIONS ON A REVISED AGREEMENT FOR COOPERATION. THEREFORE, WE ARE PREPARED TO ACCEPT A TERMINATION CLAUSE AND PROPOSE FOLLOWING MODIFIED LANGUAGE: QUOTE. ONCE NEGOTIATIONS START, AND IF AFTER A REASONABLE PERIOD OF TIME EITHER PARTY SEES NO POSSIBILITY OF REACHING AGREEMENT, THAT PARTY, FOLLOWING CONSULTATION WITH THE OTHER PARTY, MAY TERMINATE THE VALIDITY OF THIS NOTE. END QUOTE.

5. ACCEPTANCE OF THE TERMINATION CLAUSE, HOWEVER, MAKES IT ESSENTIAL TO ADD AFTER THE PHRASE IN THE SECOND SENTENCE OF THE NOTE WHICH READS "REPROCESSING, OR ALTERATION IN FORM OR CONTENT OF ANY NUCLEAR FUEL" THE WORDS "NOT SUBJECT TO ARTICLE 8 PARAGRAPH C OF THE AGREEMENT

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MENT FOR COOPERATION BETWEEN OUR TWO GOVERNMENTS CONCERNING THE CIVIL USES OF ATOMIC ENERGY." WITHOUT THIS LANGUAGE THE TERMINATION CLAUSE COULD CONCEIVABLY APPLY TO U.S.-ORIGIN FUEL AS WELL AS NON-U.S. ORIGIN FUEL.

6. ASSURANCES ON NON-U.S. ORIGIN FUEL WILL BE A SUBJECT FOR NEGOTIATION DURING DISCUSSIONS OF A REVISED AGREEMENT FOR COOPERATION, AND OUR WILLINGNESS TO ACCOMMODATE THE GOS DURING THE INTERIM PERIOD SHOULD NOT BE CONSTRUED AS PREJUDICING OUR POSITION ON THIS OR OTHER POINTS IN THE NEGOTIATIONS.

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Message Attributes

Automatic Decaptoning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: POLICIES, TEXT, NUCLEAR COOPERATION PROGRAMS, NEGOTIATIONS, EXPORT CREDIT GUARANTEES, NUCLEAR REACTORS, AMENDMENTS
Control Number: n/a
Copy: SINGLE
Sent Date: 18-Apr-1977 12:00:00 am
Decapton Date: 01-Jan-1960 12:00:00 am
Decapton Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE086369
Document Source: CORE
Document Unique ID: 00
Drafter: JACOON:LL
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D770134-0171
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770446/aaaabnye.tel
Line Count: 109
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: b06a3aa3-c288-dd11-92da-001cc4696bcc
Office: ORIGIN OES
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 77 MADRID 2020, 77 STATE 46547, 77 MADRID 2838
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 11-Mar-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 2774353
Secure: OPEN
Status: NATIVE
Subject: U.S.-SPANISH NUCLEAR COOPERATION --
TAGS: TECH, ENRG, SP
To: MADRID
Type: TE
vdkgwkey: odbc://SAS/SAS.dbo.SAS_Docs/b06a3aa3-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009